IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Civil Writ Petition No. 696 of 2005 (S/S)

Kiran Arya W/o Late Sri Narendra Lal
Presently R/o R.K. Tend House
Shiv Vihar Sector – 2
Kusumkhera, Haldwani
District Nainital …Petitioner

Versus

1. Union of India, Secretary
   Ministry of Post & Telecommunication
   New Delhi
2. Post Master General
   Uttaranchal Dehradun
3. Superintendent of Post Offices
   Almora Division
   Almora – 263 601 …Respondents

Sri Sudhir Singh, learned counsel for the petitioner
Learned Standing Counsel (Central) counsel for the respondent

Hon'ble B.C. Kandpal, J.

By way of this writ petition, the petitioner has sought a writ of mandamus for commanding the respondents to appoint her under the Dying in Harness Rules in place of her deceased husband who died during permanent employment.

Brief facts giving rise to this petition are that the husband of the petitioner, namely, Narendra Lal Arya was posted as Postal Inspector in District Almora as a permanent employee. Narendra Lal Arya died on 20.03.2005 leaving behind the petitioner and four minor children.

The petition further reveals that after the death of Narendra Lal Arya, the petitioner applied for a job under Dying in Harness Rules. The petitioner again sent a representation on 19.04.2005 to the respondents for the job under Dying in Harness Rules along with the mark-sheets and certificate of High School and Intermediate but nothing has been done on her representation as yet, hence this writ petition.

Heard learned counsel for the parties and perused the record.

It reveals from the perusal of the petition that after the death of Narendra Lal Arya, the petitioner has responsibility to look after her father-in- law, mother-in-law as well as four minor children and there being no source of income, the petitioner must facing a great hardship.

In the petition it has submitted that the petitioner deserves to be given an appointment on compassionate ground and the decision in this regard should be taken as early as possible by the respondents so that the hardship of the petitioner should be mitigated. The delay in making the appointment of the petitioner on the compassionate ground would certainly defeat the purpose.

The Hon'ble Supreme Court in a decision cited in ***1989 (4) SCC page 468 Sushma Gosain and others Vs. Union of India & others*** has observed as follows:-

> *"We consider that it must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant."*

Further the Hon'ble Apex Court in another decision reported in ***1991 (2) SCC page 689 Phoolwati (Smt.) Vs. Union of India & Others*** has been pleased to observed in a case of appointment to be made under Dying in Harness Rules observing therein that:-

> *"Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant."*

After having perused the aforesaid decisions of the Hon'ble Apex Court it becomes clear that the object underlying a provisions from grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crises resulting due to death of the bread-earner who has left the family in penury and without any means of livelihood. Out of pure humanitarian consideration and having regard to the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made for giving gainful employment to one of the dependants of the deceased who may be eligible for such appointment. Such a provision makes a departure from the general provisions providing for appointment on the post following a particular procedure.

On the basis of the discussion made by me as above, I feel it just and proper to direct to respondents to consider the petitioner claim for compassionate appointment and take appropriate decision on the application/representation dated 19.04.2005 made by her within a period of one month.

The petition is allowed and the respondents are directed to consider the representation dated 19.04.2005 moved by the petitioners as has been alleged in the petition pertaining to her appointment under the Dying in Harness Rules within a period of one month by passing speaking and reasoned order from the date of production of certified copy of the order.

In view of the above observations, the writ petition is finally disposed of.

(B.C. Kandpal, J.)

08.06.2005
ASWAL